



Appeal Decisions

Site visit made on 7 January 2020

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 13 February 2020

Appeal A Ref: APP/Q1825/W/19/3236859

Priory Barn, Alcester Road, Feckenham B96 6JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Elvins against the decision of Redditch Borough Council.
 - The application Ref 19/00368/FUL, dated 19 March 2019, was refused by notice dated 2 August 2019.
 - The development proposed is partial conversion of barn to create 1 x new 3-bed dwelling and associated works.
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Appeal B Ref: APP/Q1825/W/19/3236863

Priory Barn, Alcester Road, Feckenham B96 6JD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr K Elvins against the decision of Redditch Borough Council.
 - The application Ref 19/00399/FUL, dated 19 March 2019, was refused by notice dated 2 August 2019.
 - The development proposed is conversion of barn to create 3 x 3-bed dwellings and associated works.
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Decision

1. Appeal A is dismissed, and Appeal B is dismissed.

Procedural Matters and Main Issues

2. As set out above there are two appeals on this site. They differ only in the number of dwellings proposed and the detail of the design and private amenity space of the proposed dwellings. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
3. The Council has cited Policy 9 of the Borough of Redditch Local Plan No.4, adopted January 2017 (LP) relating to open countryside in the officer report; however, it is not referred to in the reasons for refusal. Nevertheless, I consider that Policy 9 is relevant to the determination of the appeal and it is addressed in my reasoning below.
4. Therefore, the main issues in both appeals are:
 - the effect of the developments upon the character and appearance of the host building, surrounding area and whether they would preserve or enhance that of the Feckenham Conservation Area; and

- whether the development would provide acceptable living conditions for future occupants, with regard to private outdoor amenity space, noise, disturbances and odour.

Reasons

5. Policy 9 of the LP allows development within the open countryside provided it is one of the exceptions. The criteria at iv) permits an acceptable, sustainable reuse of a rural building of a substantial and permanent construction and where it is capable of reuse without major or complete reconstruction.
6. The main parties differ on the nature of the proposed works relating to the conversion of the buildings in both Appeal A and Appeal B. The Council considers that in the absence of a full schedule of works they cannot conclude if the proposal amounts to a conversion or a rebuild. The Council have not provided any evidence other than the wording that they are not satisfied that the building is of a permanent and substantial construction. Neither is it a reason for refusal of either scheme. The appellants structural report ¹ concludes that the property can be reused and incorporated into any future proposal with a minimum of work which would be anticipated for conversion to habitable use. I shall therefore deal with the appeals on the basis of the evidence before me.
7. The Borough of Redditch High Quality Design SPD, adopted 2019 (SPD), paragraph 5.1 sets out that a well-designed conversion of rural building to residential use should retain the original, utilitarian character of the building and in paragraph 5.2a requires consideration that the building should have some intrinsic conservation. It goes further on to say that agricultural buildings are characterised by large unbroken roof slopes and few window and door openings and that new openings would normally be opposed.
8. The proposal for Appeal A relates to the conversion of the mono pitch extension to the north of the considerably larger agricultural building to one dwelling, whilst retaining the latter for agriculture. The proposals for Appeal B relate to the conversion of both the original agricultural building and extension; two dwellings in the original building and one dwelling within the extension. The buildings are of simple portal framed construction with sheet metal walls and a cement fibre board roof, being of a utilitarian appearance but are typical of modern farm buildings.
9. Appeal A would comprise of doors and windows on the south elevation and a large glazed opening on the west elevation. Appeal B, in particular to the west and east elevations would have excessive large glazed areas introduced, which would considerably over dominate the building itself. Therefore, the design of both proposed developments for dwellings would over domesticate the existing building, with cumulative impacts from the excessive openings including doors, windows and rooflights to the detriment of the rural character and appearance of the host agricultural building as it would lose its simple original and utilitarian form, resulting in discordant features, causing harm to the character and appearance of the host building and would also be at odds with the guidance contained within the Council's SPD relating to conversion of rural building to residential use.

¹ GCA: Report on Suitability for Conversion to Dwelling, ATM/W6132, Oct 2018

10. Although the proposals for new dwellings are not directly located within the Feckenham Conservation Area (FCA) it lies directly to the north and there are views of the appeal site from the FCA. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of the FCA.
11. The appeal site and wider land is being used for both agricultural and equestrian purposes and is located within an area of open countryside, close to the settlement boundary but clearly beyond the defined settlement edge. It is visually prominent from the surrounding landscape including views from and across the FCA, particularly from designated rights of way that connect from within the settlement.
12. The FCA covers almost the entire settlement of Feckenham and is centred on the High Street and junction with Droitwich Road and Alcester Road. Properties date from the 16th century onwards with a variety of size of buildings, predominantly in brick but there are also a significant number of timber framed buildings. The significance of the FCA, including land and buildings within and adjoining it, is set out within the Character Appraisal². Development within Feckenham is generally along the main roads and there is no backland development. Important features of the area include footpaths of historic origin that link different parts of the area and form attractive routes into and out of the village. The variations in buildings, including age, size and architectural style, the spaces between them as well as the rural setting all contribute to the character of the FCA and its rural setting.
13. Whilst the agricultural buildings, albeit modern are in keeping with the rural context of the area, if the buildings were to be converted to dwellings, they would appear incongruous and at odds with the existing rural setting. The associated domestic paraphernalia and car parking would also change the character of this landscape and further erode the open countryside causing harm to the historic rural character and appearance of the immediate and wider area, which includes the setting of the FCA.
14. Furthermore, the access to the appeal site is an unmade track from Manor Road, this would likely need to be upgraded to allow vehicles to access the dwellings, which would further result in the suburbanisation of the open countryside and as it also forms a public right of way there would be significant views of the dwellings which would be seen in the context of the FCA to the detriment of its historic rural setting. I acknowledge comments that there is existing mature vegetation that screen the site from views, however this would change during the months of the year and as I noted on my site visit there are short- and long-range views of the appeal site, from within and outside the FCA which contribute to its significance and wider rural setting.
15. For the reasons given above, I conclude that the proposed developments the subject of both Appeal A and Appeal B would cause harm to the character and appearance of the host building and its rural setting. It would be contrary to Policies 39 and 40 of the LP, 2017. Taken together, require development to contribute positively to the local character of the area, responding to and

² Redditch Borough Council; Feckenham Conservation Area, Feckenham, Redditch Character Appraisal; Approved 24 April 2006

- integrating with the distinctive features of the surrounding environment and be of high quality design that reflects or complements the local surroundings.
16. Whilst the harm to the heritage assets would be less than substantial, I must nonetheless give this considerable importance and weight in the context of a duty to favour preservation or enhancement.
 17. Paragraph 196 of the National Planning Policy Framework (the Framework) states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
 18. The proposals would contribute to the Council's housing land supply; however, due to the small scale of the development, the contribution would be limited. There would be limited social benefits in providing the residential dwellings and economic advantages would also arise from the construction and occupation of the new dwellings. I acknowledge that the site is in walking distance to the village and not within an isolated location³, having regard to paragraph 79 of the Framework, but it would conflict with the circumstances of the criteria of c) as the re-use of the rural buildings would not enhance their immediate setting.
 19. I have found the proposals to be unacceptable and there is insufficient information to determine whether the buildings would require major or complete reconstruction, therefore Appeal A and Appeal B would be in conflict with Policy 9 of the LP. As the policy sets out the criteria, iv) acceptable, sustainable reuse of a rural building of a substantial and permanent construction and where it is capable of reuse without major or complete reconstruction.
 20. Appeal A and B would also be contrary to Section 16 of the Framework, with reference to paragraph 196 as it would fail to preserve or enhance the character and appearance of the Feckenham Conservation area and would not conserve the heritage asset in a manner appropriate to its significance, or positively contribute to local character or distinctiveness.

Living Conditions

21. The Framework at paragraph 17, requires planning decisions to seek a good standard of amenity for existing and future occupants of land and buildings. Whilst, the Council's SPD guidance requires that private amenity space to be of a usable size, with a minimum of 70sqm for dwellings and expects it to be suitably sited and in scale with the plot and surrounding buildings.
22. The proposals for both Appeal A and Appeal B show outdoor amenity space being provided within the site and would meet the required minimum size requirement, albeit the gardens of Appeal B would be odd shaped. However, these would be located either next to the existing ménage and/or access routes and parking. The appellant acknowledges that the layout of amenity areas is tight too and around the buildings, and the need for boundary enclosures are also limited but would be by way of post and rail/post and wire fencing. However, this would not suffice to ensure occupants could enjoy private outdoor amenity space particularly with Appeal B being three residential units.

³ Braintree District Council v Secretary of State for Communities and Local Government & Ors [2017] EWHC 2743 (Admin)

23. Furthermore, the proposals for Appeal A, being only one residential unit would be attached to the existing agricultural building and associated agriculture / equestrian use. The appeal does not indicate that this use would cease within this building, therefore I am not satisfied that it would not lead to additional harm for future occupiers of the dwelling as it would be likely that the noise, disturbances and odours associated with the agricultural / equestrian use would have an unacceptable impact on living conditions. I do not consider that a suitable condition could be imposed for either the use or restricting personal occupancy, neither would satisfy the six tests set out within the planning policy guidance⁴ or that the reference to 'buyer beware' would justify acceptability.
24. For the reasons given above, I conclude that the proposed developments the subject of both Appeal A and Appeal B would not provide acceptable living conditions for future occupiers of the proposed dwellings. It would be contrary to paragraph 17 of the Framework, 2019 in relation to providing a good standard of amenity for future occupants. They would also be contrary to the guidance contained within the Council's SPD relating to private amenity space.

Other Matters

25. The appellant contends that the appeal site amounts to previously developed land (PDL). The Framework⁵ supports development that makes efficient use of land, through the definition of PDL, which includes land occupied by a permanent structure including the curtilage of developed land, however this does not go without being caveated. It also excludes land that is or was last occupied by agricultural buildings. The evidence before me is inconclusive, but even if I were to consider the site amounts to PDL, the proposal would not make efficient use of land, given the harm I have found in respect of character and appearance, it would not maintain the area's prevailing character and so would not accord with paragraph 122 of the Framework.
26. I have been referred to other developments for residential development. However, I do not have full details of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal, including in respect of scale, location to the FCA, design, materials and development plan policy. In any case, I have determined the appeal on its own merits.
27. The appellant has referred to development which is acceptable under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), Class Q. However, this relates to prior approval consent, of which do not consider the wider planning considerations. Therefore, it is not directly comparable with the proposals which apply to this S78 appeal and as such has had little bearing on my findings.
28. I note that local residents and the Parish Council have expressed additional concerns about the proposed developments, including highway safety, use of the access track, listed buildings, right of access, ownership, ecology, precedent, previous uses of the site, views, publicity and landscaping. However, the Council did not raise these points as reasons for refusal and I note there were no objections from the highways or rights of way officer in regard to highway safety and the use of the public rights of way. Therefore, I

⁴ Planning Policy Guidance (PPG): Paragraph: 003 Reference ID: 21a-003-20190723: Revision date: 23 07 2019

⁵ National Planning Policy Framework, 2019: Annex 2: Glossary, Previously developed land

have no substantive evidence to support those concerns. Given my findings in relation to the main issues, it is not necessary to consider these matters in detail.

29. In the absence of the Council having a 5-year housing land supply of which the appellant does not disagree, paragraph 11d) of the Framework needs to be engaged. Policy 9 of the LP cannot be afforded full weight, but as it has some synergy with paragraph 79 clause c) significant limited weight can be attached. However, the other policies which apply to this appeal are consistent with the Framework. Overall, the suite of policies which are most important for determining the appeal are up to date.
30. However, due to the harm to the Conservation area that I have found, and in accordance with the Framework paragraph 11 d) i., the policies that protect heritage assets apply, and the harm that I have identified provides a clear reason for refusing the developments.

Planning Balance and Conclusion

31. I recognise the appeal proposals would have benefits with regard to the supply of housing in the Borough, be within a sustainable location and the contribution both construction opportunities and any future occupiers would make to the local economy. Appeal A and Appeal B would conflict with Policies 39 and 40 of the LP and therefore conflicts with the development plan as a whole. The considerations in favour of the development do not overcome the statutory presumption in favour of the development plan. The small benefits of the proposals would not outweigh this clear reason and, along with the further harm identified, means that I must conclude that both Appeal A and Appeal B should not succeed.

KA Taylor

INSPECTOR